

February 11, 2021

Federal Highway Administration
Attn: FOIA Officer (HAD-1)
1200 New Jersey Ave., SE
Washington, DC 20590
E-mail FOIA.Officer@dot.gov

VIA EMAIL

Re: Freedom of Information Act Request – Nimmo Parkway Phase VII-B Proposal

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, the Southern Environmental Law Center (SELC) respectfully requests any and all correspondence (including letters and emails) in the possession of the Federal Highway Administration that was created since January 1, 2019 and conveys comments of a federal, state, or local governmental body or official for consideration as part of the National Environmental Policy Act (NEPA) review or the Section 404 Clean Water Act review of the Nimmo Parkway Phase VII-B proposal in the City of Virginia Beach.

Please note that FOIA directs a responding agency to make a “determination” on any request within twenty working days of receipt. 5 U.S.C. § 552(a)(6)(A). Should our request be denied in whole or in part, please inform us of the grounds for denial and the specific administrative appeal rights that are available.

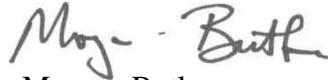
In the event an exemption is claimed for any of the records requested herein, in whole or in part, we ask that you please identify the exemption under which such records are being withheld, as well as the amount of information being withheld. *See* 5 U.S.C. § 552(a)(6)(F)&(b). We note that when FOIA provides an exemption for a portion of a record that is not exempt in its entirety, any segregable portion of the record must be provided after exempted information is deleted. 5 U.S.C. § 552(b).

We request that you waive any search and duplication fees and provide the requested records without charge, or at a reduced charge, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). SELC is a 501(c)(3) non-profit organization working to protect the natural resources of the Southeast and, specifically, to gather, analyze, and disseminate public information about major public infrastructure projects, such as the proposed Nimmo Parkway Phase VII-B proposal, and the impacts of such projects on wetlands, wildlife, water quality, and other resources in Virginia. The disclosure of the requested materials would be in the public interest because it is likely to contribute significantly to public understanding of the Nimmo Parkway Phase VII-B proposal and is not in the commercial interest of SELC. Courts have recognized that Congress intended FOIA’s fee waiver provision to be “liberally construed in favor of waivers for noncommercial requesters.” *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987).

Should our request for reduced or waived fees be denied, we are prepared to bear the reasonable costs necessary to fulfill this request, although we request that you contact us before processing this request to discuss fees. We reserve our rights to appeal a denial of our request for a fee waiver or reduction.

Please contact me at (434) 977-4090 or mbutler@selcva.org with any questions. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Morgan Butler". The signature is fluid and cursive, with the first name "Morgan" and last name "Butler" clearly distinguishable.

Morgan Butler
Senior Attorney